

The Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARK F. CANFIELD, on behalf of all persons)

similarly situated,)

Plaintiff,)

v.)

CHIEF JOHN R. BATISTE of the Washington)

State Patrol, in his individual capacity,)

ASSISTANT CHIEF GREGORY E. MILLER)

of the Washington State Patrol, in his)

individual capacity; CAPTAIN JEFFREY)

SASS of the Washington State Patrol, in his)

individual capacity; JOHN AND JANE DOE)

Defendants 1-25, in their individual capacities,)

Defendants.)

No. C11-5994RJB

AGREEMENT AND STIPULATION OF
SETTLEMENT AND PERMANENT
INJUNCTION ORDER

Note on Motion Calendar:
February 1, 2012

AGREEMENT AND STIPULATION OF SETTLEMENT

Plaintiff and Defendants, through their respective undersigned counsel, stipulate as follows:

1. The parties have reached an agreement to end this litigation in accordance with the terms of this Agreement and Stipulation.

2. Defendants agree to permanently cease their practice of issuing and enforcing "Trespass Warnings" (as defined in the proposed Permanent Injunction Order) on the "State Capitol Grounds" (as defined in the proposed Permanent Injunction Order) against both Plaintiff and all others similarly situated.

1 3. The parties agree that this Agreement and Stipulation and the proposed
2 Permanent Injunction Order have as their intended beneficiaries all persons similarly situated to
3 Plaintiff.

4 4. The parties agree that this Agreement and Stipulation and the proposed
5 Permanent Injunction Order shall be enforceable both by Plaintiff and by all others similarly
6 situated.

7 5. The parties agree that counsel for Plaintiff are entitled to reasonable attorneys'
8 fees and costs, in an amount to be approved by the Court in a separate Order on Plaintiff's
9 Motion for Reasonable Attorneys' Fees and Costs. The parties agree that Plaintiff will request
10 no more than \$25,000 as reasonable attorneys' fees and costs. Defendants reserve the right to
11 review any and all materials that Plaintiff submits in support of his motion for attorneys' fees
12 and to oppose an unreasonable request for attorneys' fees.

13 6. Upon payment of the attorneys' fees, counsel for Plaintiff shall dismiss this
14 action with prejudice.

15 7. This settlement agreement is contingent on the Court's verbatim entry of the
16 proposed Permanent Injunction Order as set forth below.

17 DATED this 1st day of February, 2012.

18
19 ROBERT M. MCKENNA
20 Attorney General

21
22 By: /s/ Shelley A. Williams (with permission)
23 Shelley A. Williams, WSBA #37035
24 Assistant Attorney General
25 Attorneys for Defendants Chief John R. Batiste, Assistant
26 Chief Gregory E. Miller, and Captain Jeffrey Sass
 Attorney General's Office
 800 Fifth Avenue, Suite 2000
 Seattle, WA 98104
 Telephone (206) 389-3807; Fax (206) 587-5088
 E-mail: ShelleyW1@atg.wa.gov

By:

/s/ Gretchen S. Obrist

Gretchen S. Obrist, WSBA #37071
gobrist@kellerrohrback.com

/s/ Benjamin Gould

Benjamin Gould, WSBA #44093
bgould@kellerrohrback.com

/s/ Harry Williams, IV

Harry Williams, IV, WSBA #41020
hwilliams@kellerrohrback.com

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101
Telephone: (206) 623-1900

Counsel for Plaintiff

PERMANENT INJUNCTION ORDER

This matter having come before the Court on the parties' Agreement and Stipulation of Settlement and their request for the entry of this Permanent Injunction Order,

IT IS HEREBY ORDERED as follows:

1. The Court makes and reaffirms the findings of fact and conclusions of law set forth in this Court's Order Granting a Motion for a Temporary Restraining Order, signed on December 6, 2011 (Dkt. No. 11), attached as Exhibit A to this Permanent Injunction Order.

2. This Permanent Injunction Order incorporates by reference the terms of the Agreement and Stipulation set forth above. The obligation of both parties to comply with the terms of the Agreement and Stipulation is hereby made a part of this Order. A breach of any of the terms of the Agreement and Stipulation shall be deemed a violation of this Order.

3. This Permanent Injunction Order prohibits certain conduct by the Defendants in their official capacities, as set forth below.

4. Defendants John R. Batiste, Gregory E. Miller, and Jeffrey Sass, shall not personally issue, or allow Others In Their Control to issue, Trespass Warnings banning individuals from the State Capitol Grounds.

5. Defendants shall not personally arrest, or allow Others In Their Control to arrest, individuals based solely on the violation of a Trespass Warning.

6. "Trespass Warnings," within the meaning of this Order, shall mean any order, warning, or admonishment that is identical to, or materially indistinguishable from, the form attached as Exhibit B to this Permanent Injunction Order. An order, warning, or admonishment that bans a person from entering the Capitol Grounds for a specified period may or may not be "materially indistinguishable" from the form attached as Exhibit B within the meaning of this

1 Order. In determining whether an order, warning, or admonishment is “materially
2 indistinguishable” within the meaning of this Order, the Court should consider any
3 administrative review processes, promulgated in the Washington Administrative Code,
4 subsequent to the date of this Order.

5 7. “State Capitol Grounds,” within the meaning of this Permanent Injunction
6 Order, shall have the meaning given to such term by WAC 200-230-020(7).

7 8. “Others In Their Control,” within the meaning of this Permanent Injunction
8 Order, shall mean general authority Washington peace officers, as defined in chapter 10.93
9 RCW, whose primary commissioning agency, as defined in chapter 10.93 RCW, is the
10 Washington State Patrol.

11 9. This Permanent Injunction Order shall remain in effect permanently unless
12 modified by this Court upon proper motion.

13 10. This Permanent Injunction Order has as its intended beneficiaries all persons
14 similarly situated to Plaintiff.

15 11. This Permanent Injunction Order shall be enforceable both by Plaintiff and by
16 all others similarly situated.

17 12. This Permanent Injunction Order does not prohibit arrests for violations of the
18 criminal laws.

19 13. No later than February 10, 2012, Plaintiff’s counsel shall make a motion for
20 recovery of their reasonable attorneys’ fees and costs, not to exceed the amount specified in the
21 Agreement and Stipulation.
22
23
24
25
26

14. Pursuant to the parties' stipulation, this action shall be dismissed with prejudice upon payment of reasonable attorneys' fees to counsel for Plaintiff.

DATED this 2nd day of February, 2012.



ROBERT J. BRYAN
United States District Judge

Presented by:

KELLER ROHRBACK L.L.P.

By: /s/ Gretchen S. Obrist
Gretchen S. Obrist, WSBA #37071
gobrist@kellerrohrback.com

By: /s/ Benjamin Gould
Benjamin Gould, WSBA #44093
bgould@kellerrohrback.com

By: /s/ Harry Williams, IV
Harry Williams, IV, WSBA #41020
hwilliams@kellerrohrback.com
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
Phone: 206-623-1900
Fax: 206-623-3384

Counsel for Plaintiff

Approved as to form by:
ROBERT M. MCKENNA
Attorney General
By: /s/ Shelley A. Williams (with permission)
Shelley A. Williams, WSBA #37035
ShelleyW1@atg.wa.gov
Attorney General's Office
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
Phone: 206-389-3807
Fax: 206-587-5088

Attorneys for Defendants